

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

10-17-08

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APPLICANT: Uchida et al.

SERIAL NUMBER: 10/568,568 EXAMINER : Anoop Kumar Singh

FILING DATE: October 10, 2006 ART UNIT : 1632

FOR: ENRICHED PANCREATIC STEM CELL AND PROGENITOR CELL  
POPULATIONS, AND METHODS FOR IDENTIFYING, ISOLATING  
AND ENRICHING FOR SUCH POPULATIONS

**Mail Stop Amendment**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL LETTER**

Transmitted herewith for filing in the present application are the following documents:

1. Response to Restriction Requirement and Election of Species (2 pgs); and
2. Return Postcard.

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 542-6000, Boston, Massachusetts.

The Commissioner is authorized to charge any fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311 Ref. No. 17810-519 NATL.

Respectfully submitted,

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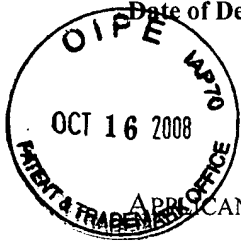
Fax: (617) 542-2241

Date: October 16, 2008

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Date of Deposit: October 16, 2008

Attorney Docket No. 17810-519 NATL



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: Uchida et al.

SERIAL NUMBER: 10/568,568

EXAMINER: Anoop Kumar Singh

FILING DATE: October 10, 2006

ART UNIT: 1632

FOR: Enriched Pancreatic Stem Cell and Progenitor Cell Populations, and Methods for Identifying, Isolating and Enriching for Such Populations.

**Mail Stop Amendment**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES**

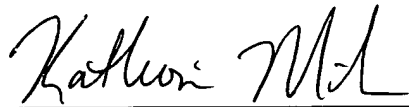
In response to the September 18, 2008 Restriction Requirement mailed in the above-identified application, Applicants elect Group VIII, Claim 49, drawn to a pancreatic stem cell, wherein the pancreatic stem cell is CD133+CD49f+, without traverse.

The Restriction Requirement also requires the election of species. Applicants traverse the election of either monoclonal antibody AC133 or monoclonal antibody SC111. Applicants submit that the election is improper because these monoclonal antibodies bind the same target, the CD133 antigen, and thus, the disclosed species constitute a genus of monoclonal antibodies that share a common mode of operation, function, or effect. Moreover, Applicants contend that the imposed species restriction unduly limits the scope of the subject matter Applicants regard as the invention. However, if the Examiner finds that the election of a species is proper, Applicants elect monoclonal antibody AC133. Claim 49 reads on the elected species.

Applicants respectfully note that the election of species is made for the purpose of examination of the claims only and that Applicants maintain the right to have the full scope of the claims, as written, examined on the merits. Further, Applicants respectfully reserve the right to prosecute the non-elected claims and species in a continuation or divisional application and also respectfully reserve the right to traverse the Examiner's requirement of a restriction/election in a future response to the U.S. Patent and Trademark Office.

This response is due on or before October 18, 2008. Applicants believe no fees are due with this submission, however, should any fee be due, the Commissioner is hereby authorized to charge the fee, or credit any overpayment, to Deposit Account No. 50-0311 (Reference No. 17810-519 NATL).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Katherine Miller", written over a horizontal line.

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Dated: October 16, 2008